

Applicant	:	Paul G. Yock, et al.
Appl. No.	:	10/776,037
Examiner	:	Marvich, Maria
Docket No.	:	13854.4004

Remarks

In the Office Action mailed June 24, 2007, the Examiner allowed claims 1—7, 15, 16, 18—31, 33—36, 45, 49—52, 54—62, 64, 66, 68, 69, 79—85, 87, 89, 92, 101 and 103, rejected claims 8, 10—12, 37—42, 44, 46—48, 67, 70—77, 90, 91, 93—100, 102 and 104 under 35 USC 112, and objected to claims 13—14, 17, 32, 37, 43, 45, 49, 50, 53, 63, 65, 67—69, 74, 76, 78, 86, 88, 90, 92, 97 and 99. The Examiner did not address the status of claim 9. Claims 1, 8—9, 17, 32, 37, 53, 63, 65, 67, 74, 76, 78, 86, 88, 90, 97, and 99 have been amended. The items raised in the June 24, 2008 Office Action are addressed in the remarks below. In view of the foregoing amendments and subsequent remarks, applicants request reconsideration of the claim objections and rejections.

I. Oath / Declaration

The Examiner objected to the oath/declaration for not identifying the mailing address of each inventor. A supplemental Oath/Declaration will be filed and will correct the error of the missing mailing address of one of the inventors.

II. Claim Objections

The Examiner objected to claims 32, 37, 63, 65, 67, 74, 76, 78, 86, 88, 90, 97 and 99 because of the following informalities: claim 1 recites "producing disruptive passageways there through" and according to the Examiner it would be proper to recite — thereof—in place of "there through." Claims 1, 8, 37, 67, 78 has been amended to remove this informality.

Applicant	:	Paul G. Yock, et al.
Appl. No.	:	10/776,037
Examiner	:	Marvich, Maria
Docket No.	:	13854.4004

The Examiner objected to claims 32, 63, 65, 74, 76, 86, 88, 97 and 99 because of the following informalities: according to the examiner the claims should recite –having an occlusion device to occlude the vessel downstream...–. The claims have been amended to remove this informality.

The Examiner objected to claims 37 and 78 because of the following informalities: according to the examiner the claims should recite –retroinfusing a fluid comprising the agent...–. The claims have been amended to remove this informality.

The Examiner objected to claims 67 and 90 because of the following informalities: according to the examiner the claims should recite –distention leads to disruption...–. The claims have been amended to remove this informality.

The Examiner objected to claims 17 and 53 as being a substantial duplicate of claims 16 and 52. Claims 17 and 53 have been amended to depend from claims 15 and 51 instead of claims 16 and 52. Applicants submit that claims 17 and 53 are not a substantial duplicate of 16 and 52 as a result.

III. Claim Rejections – 35 U.S.C. § 112

Claims 8, 10—12, 37—42, 44, 46—48, 67, 70—77, 90, 91, 93—100, 102 and 104 were rejected under 35 U.S.C. § 112, first paragraph as not enabled by the specification. The examiner asserts that the specification is enabling for a method of retroinfusing an agent into a vascular vessel under pressure and/or to produce mechanical stress. Applicants have amended claims 8 and 37 to read "... mechanically stress a wall of said vein [vessel in claim 37] to disrupt the wall wherein the integrity of the wall is compromised

Applicant	:	Paul G. Yock, et al.
Appl. No.	:	10/776,037
Examiner	:	Marvich, Maria
Docket No.	:	13854.4004

producing disruptive passageways there of..." Accordingly, claims 8 and 37 are enabled by the specification as per the Examiner's assertion noted above.

Claim 44 recites "retroinfusing a fluid into a vein of said host under pressure sufficient for the fluid to disrupt a wall of said vein..." As the Examiner asserts, the specification is enabling for a method of retroinfusing an agent into a vascular vessel under pressure, which is exactly what claim 44 claims.

Claims 67 recites that the retroinfusing said agent into a vascular vessel of said host under conditions sufficient for a flowable formulation of the agent of a fluid deliver vehicle thereof to distend a wall of said vessel." Applicants submit that "distention" of the vessel wall is a form of mechanical stress. Accordingly, Claim 67 is enabled according to the Examiner assertion regarding the specification above.

Claim 90 similarly recites "under conditions sufficient for the fluid to at least distend said vessel." As with Claim 67, Claim 90 is enabled according to the Examiner assertion regarding the specification above.

In view of the foregoing, Applicants respectfully submit that Claims 8, 10—12, 37—42, 44, 46—48, 67, 70—77, 90, 91, 93—100, 102 and 104 meet the requirements for patentability under 35 U.S.C. § 112. Accordingly, Applicants respectfully request withdrawal of the rejection of those claims under 35 USC 112.

Applicant : Paul G. Yock, et al.
Appl. No. : 10/776,037
Examiner : Marvich, Maria
Docket No. : 13854.4004

CONCLUSION

In view of the foregoing, it is submitted that the claims presented in this reissue application define patentable subject matter to which Applicant is entitled. Accordingly, consideration and allowance of the reissue application is requested.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,

Orrick, Herrington & Sutcliffe LLP

/Kenneth S. Roberts/

Dated: November 20, 2008

By _____
Kenneth S. Roberts
Reg. No. 38,283
Attorneys for Applicants

4 Park Plaza
Suite 1600
Irvine, California 92614
(949) 567-6700